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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/919,356
Filing Date: July 31, 2001
Appellant(s): TAKATSUKA ET AL.

Nathan Weber
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 1, 2008 appealing from the Office action mailed December 31, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,810,528

CHATANI

10-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 24-28 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,810,528 to Chatani.

As concerns claims 24, 25 and 28, means for processing (120,138) movement data files (col. 5, lines 16-18-moving image data; col. 5, lines 41-42-user input data; col. 5, lines 45-46-data) stored in (col. 4, lines 64-65-memory of console; col. 5, lines 43-45) the user operated computer program execution device/entertainment system (col. 5, lines 42-45; 110, 60), the movement data files including movement data corresponding to the flag information (col. 5, lines 16-18; col. 9, lines 10-12; col. 1, lines 45-65-data synchronized for display);

means for receiving (140) from the server (10; col. 6, lines 50-55) the performance information file (col. 5, lines 39-40-status data; col. 6, lines 50-55- synchronization or trigger signals) by the computer program execution device;

means for composing the performance (138; 170) by selecting from the movement data, the data that corresponds to the flag information registered on the performance information file to define the movements and expressions of characters and utilizing the sequence information to order the movement data (col. 5, lines 18-23; 170; col. 8, line 66-col. 9, line 14; col. 1, lines 45-65; see also col. 10, lines 21-27);

and program display means for displaying (80) the composed performance on the display device.

As further concerns claim 28, wherein the performance information file includes the sequence information that constitutes the performance and the flag information that defines movements or expressions of characters that appear in the sequence information (138; col. 5, lines 39-40-status data; col. 6, lines 50-55- synchronization or trigger signals).

As concerns claim 26, adapted to transmit contributed text of users (140-allows ability to transmit text/graphics; col. 1, lines 45-65-data from users transmitted to other users). Note it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.

As concerns claim 27, displaying the series of performances after the reception of the performance information file is completed (inherent that data cannot be displayed until after it has been received and processed). Note it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.

(10) Response to Argument

The Appellant argues Chatani does not teach the features of the use of three separate types of data or information namely the performance information file comprised of the flag information and sequence information, and the movement data files that are resident on the computer program execution device (see Brief page 6-3rd paragraph).

The claims have been given their broadest reasonable interpretation. Chatani discloses at least at column 6, lines 50-55, the server sends data to the game consoles, which may comprise

synchronization or trigger signals. Chatani at column 7, lines 24-27 discloses the data received from the server at the console is used to run the game program components. The servers will receive various input data from other users, process the data and then send updates for the status of the game (col. 1, lines 50-65).

The appellant has labeled their data from the server “performance information” which comprises “flag information” and “sequence information”. The data at the console is labeled “movement data”. This is still just data. Chatani discloses sending data from a server to a user console, which has its own “movement data”, such as user inputs and data of objects (see col. 5, lines 44-46; such as data stored on the CD-ROM). The game environment at the user console needs to receive updates from the server of what the other users are performing in the game. This data is sent to the server and distributed to the user at the console via status data, synchronization data and trigger signals. This data performs the same function as the claimed “flag information” and “sequence information” since it needs to be “corresponded” with data at the users console, “movement data”, to synchronize the game environment for all users. This data is processed by the components of Chatani providing the same result, as claimed, of displaying a performance.

Thus the data of Chatani functions and provides equivalent results as the claimed “performance information” and “movement data” as set forth in the claimed invention. Therefore the prior art of Chatani as a whole, when viewed by one of ordinary skill in the art giving the scope of the claims their broadest reasonable interpretation would conclude it anticipates the claimed invention.

The Appellant argues Chatani does not teach receiving a performance information file from the server, particularly one that includes both flag information and sequence information, and that these two types of data are used in conjunction with movement data, resident on the game console, compose a program to be viewed on the display (see Brief page 7, 4th paragraph).

The claims have been given their broadest reasonable interpretation. Chatani discloses at least at column 6, lines 50-55, the server sends data to the game consoles, which may comprise synchronization or trigger signals. Chatani at column 7, lines 24-27 discloses the data received from the server at the console is used to run the game program components. The servers will also receive input data from other users, process the data and then send updates for the status of the game (col. 1, lines 50-65; col. 6, lines 44-45).

The appellant has labeled their data from the server “performance information” which comprises “flag information” and “sequence information”. The data at the console is labeled “movement data”. This is still just data. Chatani discloses sending data from a server to a user console, which has its own “movement data”, such as user inputs and data of objects (see col. 5, lines 44-46; such as data stored on the CD-ROM). The game environment at the user console needs to receive updates from the server of what the other users are performing in the game. This data is sent to the server and distributed to the user at the console via status data, synchronization data and trigger signals. This data performs the same function as the claimed “flag information” and “sequence information” since it needs to be “corresponded” with data at the users console, “movement data”, to synchronize the game environment for all users.

This data is processed by the components of Chatani providing the same result, as claimed, of displaying a performance. Therefore the prior art of Chatani as a whole, when

viewed by one of ordinary skill in the art giving the scope of the claims their broadest reasonable interpretation would conclude it anticipates the claimed invention.

The Appellant argues Chatani does not suggest that “status data” is the same thing as a performance information file, let alone one comprised of sequence information and flag information (see Brief-page 8, 1st paragraph).

The claims have been given the broadest reasonable interpretation and the applicant may be their own lexicographer. However the data of Chatani is equivalent to the claimed “performance information file” since it provides for the claimed functions and results. The status, synchronization or trigger data is received from a server and is corresponded with "movement data", user input or object data (see col. 5, lines 44-46), at the computer execution device/console for composing and displaying the performance.

The Appellant argues Chatani at col. 5, lines 16-18 does not teach that the “moving images and texture images” described therein correspond to flag data and movement data as defined in the claims (see Brief-page 8, 2nd paragraph).

The claims have been given the broadest reasonable interpretation and it is the reference as a whole that anticipates the claimed invention. Chatani discloses data that is equivalent to the claimed “performance information file” which includes the “flag” and “movement” data since it provides for the claimed functions and results. The status, synchronization or trigger data is received from a server and is “corresponded” with "movement data", user input or object data (see col. 5, lines 44-46), at the computer execution device/console for composing and displaying

the performance. The image data is processed at least by processing unit 138 (see col. 9, lines 9-11) wherein col. 5, lines 16-18 discloses that the processing unit is going to process data to output to create the “performance”. This data being processed directly or indirectly corresponds with the data being received from the server (i.e. flag data) and data from the user console (i.e. movement data). (See also Chatani at column 5, lines 38-39 – status data; column 6, lines 50-55- synchronization and trigger signals)

The Appellant argues Chatani do not teach a system utilizing a performance information file comprised of flag information and sequence information, particularly one that is sent from a server to a computer for further use in creating a performance (see Brief-page 8, 3rd paragraph).

The claims have been given their broadest reasonable interpretation. Chatani discloses at least at column 6, lines 50-55, the server sends data to the game consoles, which may comprise synchronization or trigger signals. Furthermore see column 1, lines 50-65 wherein Chatani discloses the system of receiving data from the server to a computer/console for creating a performance/game play.

The Appellant further argues Chatani does not teach the utilization of a performance information file to compose and sequence movement data stored on a computer to create a performance where the flag data identifies which of the movement data stored locally on the computer is to be used in the performance and the sequence data is used to order the movement data (see Brief-page 8, 3rd paragraph).

Chatani at least at col. 1, lines 50-65, user data is received at a server and processed and then updated data is sent to the user machine. Also Chatani at column 6, lines 50-55, wherein the server sends data to the game consoles, which may comprise synchronization or trigger signals and column 7, lines 24-27 discloses the data received from the server at the console is used to run the game program components. The servers will also receive input data from other users, process the data and then send updates for the status of the game (col. 1, lines 50-65; col. 6, lines 44-45).

The appellant has labeled their data from the server “performance information” which comprises “flag information” and “sequence information”. The data at the console is labeled “movement data”. This is still just data. Chatani discloses sending data from a server to a user console, which has its own “movement data”, such as user inputs and data of objects (see col. 5, lines 44-46; such as data stored on the CD-ROM). The game environment at the user console needs to receive updates from the server of what the other users are performing in the game. This data is sent to the server and distributed to the user at the console via status data, synchronization data and trigger signals. Therefore data stored at the user computer/console, such as input data and data with respect to the environment of the game (i.e. textures, backgrounds and objects – see col. 5, lines 45-46) is selected as needed based on the status and synchronization data received from the server.

The data of Chatani thus performs the same function as the claimed “flag information” and “sequence information” since it needs to be “corresponded” with data at the users console, “movement data”, to synchronize the game environment for all users. This data is processed by the components of Chatani providing the same result, as claimed, of displaying a performance.

Therefore the prior art of Chatani as a whole, when viewed by one of ordinary skill in the art giving the scope of the claims their broadest reasonable interpretation would conclude it anticipates the claimed invention.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/John B. Walsh/

Patent Examiner, AU2151

Conferees:

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2151

/Jason D Cardone/

Supervisory Patent Examiner, Art Unit 2145